

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (CGM)

SIPA LIQUIDATION
(Substantively Consolidated)

In re:

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Debtor.

**JOINDER IN MULTI-STRATEGY FUND LIMITED'S OBJECTION TO THE
TRUSTEE'S MOTION FOR ORDER AMENDING ORDER APPOINTING A
DISCOVERY ARBITRATOR**

1. Defendant Parson Finance Panama S.A. in Adv. Pro. No. 11-02542 (CGM), hereby objects to the Motion for Order Amending Order Appointing a Discovery Arbitrator Pursuant to Bankruptcy Rule 9019(c) and General Order M-390, filed in Adv. Pro. No. 08-01789 (CGM), ECF 23449, 23454 ("Trustee's Motion"), by Irving H. Picard, as trustee for the liquidation of Bernard L. Madoff Investment Securities LLC and the estate of Bernard L. Madoff ("Trustee"), and joins in all aspects of the Objection to the Trustee's Motion, ECF 23516, filed by Multi-Strategy Fund Limited.

2. The Case Management Plan for the Parson Finance adversary proceeding is filed as ECF 22695 on the main docket. Paragraph 9 of the Case Management Plan provides that "the Parties agree to the use of Discovery Arbitrator, Frank Moss, Esq., to resolve discovery disputes." The Case Management Plan incorporates by reference the

Order Appointing a Discovery Arbitrator, which the Trustee now wishes to amend.

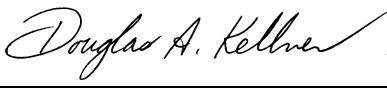
3. The limitation on the costs of discovery arbitration was a material factor in Parson Finance's negotiation of the terms of the Case Management Plan.

4. The reasons stated by the Trustee for modification of the cost allocations do not apply to the Parson Finance adversary proceeding. Parson Finance made only a single investment in Fairfield Sentry in 2002 and redeemed that investment on April 14, 2005. Parson Finance's gain on the investment was only \$1,089,081—less than the average in the fictitious profits cases .

5. Because the Trustee has failed to justify the modification to the Order Appointing Discovery Arbitrator, under either Rule 60(b)(5) or Rule 60(b)(6), the Court should deny the Trustee's Motion.

Dated: September 6, 2023

KELLNER HERLIHY GETTY & FRIEDMAN, LLP

By: 

Douglas A. Kellner

Attorneys for Defendant Parson Finance Panama S.A,
470 Park Avenue South—Seventh Floor
New York, New York 10016-6951
Telephone: (212) 889-2121
Email: dak@khgflaw.com